excerpt 1

1.5 Impaired Water Bodies and Total Maximum Daily Load Requirements

1.5.1 By March 31, 2014 and by March 31 biennially thereafter, the permittee shall determine whether any part of its MS4 discharges to an impaired water body listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC §1313(d)(1)(C), and the implementing regulation of the US Environmental Protection Agency, 40 CFR §130.7(c)(1).

Note: A list of Wisconsin impaired water bodies may be found on the Department's Internet site at: http://dnr.wi.gov/topic/impairedwaters/

1.5.2 If the permittee's MS4 discharges to an impaired water body, the permittee shall include a written section in its storm water management program that discusses the management practices and control measures it will implement as part of its program to reduce, with the goal of eliminating, the discharge of pollutant(s) of concern that contribute to the impairment of the water body. This section of the permittee's program shall specifically identify control measures and practices that will collectively be used to try to eliminate the MS4's discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and practices were chosen as opposed to other alternatives.

1.5.3 After the effective date of this permit, the permittee may not establish a new MS4 discharge of a pollutant of concern to an impaired water body or increase the discharge of a pollutant of concern to an impaired water body unless the new or increased discharge causes the receiving water to meet applicable water quality standards, or the Department and the USEPA have approved a total maximum daily load (TMDL) for the impaired water body. If there is an approved TMDL for the receiving water, the permittee ~~must~~shall comply with Section 1.5.4 below. "New MS4 discharge of a pollutant" has the meaning specified under section 1.4.2.1 of this permit.

Note: Approved TMDLs are listed on the Department's Internet site at: http://dnr.wi.gov/topic/impairedwaters/

1.5.4 If prior to the effective date of this permit the Department and the USEPA have approved a TMDL to which the permittee's MS4 discharges a pollutant of concern and the TMDL assigns the permittee a wasteload allocation, then the permittee shall comply with sections 1.5.4.1, 1.5.4.2, and 1.5.4.3 below as appropriate.

Note: Approved TMDLs are listed on the Department's Internet site at: http://dnr.wi.gov/topic/impairedwaters/. As of the effective date of this permit, approved TMDLs that affect the applicability of section 1.5.4 are the Rock River in south central Wisconsin, Tainter/Menomin Lakes in west central Wisconsin, and the Lower Fox River in northeast Wisconsin.

1.5.4.1 With the annual report due March 31, 2014, the permittee shall submit all of the following:

1.5.4.1.1 An updated storm sewer system map that identifies:

1.5.4.1.1.1 The current municipal boundary. For a permittee that is not a city or village, identify the permitted area.

Note: The permitted area for towns, counties and non-traditional MS4s pertains to the area within an urbanized area or the area served by its storm sewer system, such as a university campus.

1.5.4.1.1.2 The TMDL reachshed boundaries within the municipal boundary, and the area of each TMDL reachshed in acres within the municipal boundary.

1.5.4.1.1.3 The MS4 drainage ~~area~~ boundary associated with ~~the~~each TMDL reachshed ~~boundaries~~, and the area in acres of ~~each~~the MS4 drainage ~~area~~ boundary associated with each TMDL reachshed.

1.5.4.1.2 Identification of areas on a map and the acreage of those areas within the municipal boundary that the permittee believes should be excluded from ~~it should not be responsible for meeting~~ its analysis to show compliance with the TMDL wasteload allocation. In addition, the permittee shall provide an explanation of why these areas should not be its responsibility.

Note: ~~An example of an~~ example of an area within a municipal boundary that may not be subject to a TMDL wasteload allocation for the permittee ~~could be a~~ is an ~~large park or forest preserve next~~ area that does not drain ~~to the water body~~ through the permittee's MS4~~where runoff drains from the park as a nonpoint source to the receiving water.~~ This information acquired with the annual report due March 31, 2014, will be used by the Department to ~~refine~~ facilitate implementation of the TMDL~~the wasteload allocations as necessary to more accurately reflect existing conditions.~~

1.5.4.2 With the annual report due March 31, 2017, the permittee shall submit a tabular summary that includes the following for each MS4 drainage boundary associated with each TMDL reachshed as identified under section 1.5.4.1.1.3 and for each pollutant of concern:

1.5.4.2.1 The permittee's percent reduction needed to comply with its TMDL wasteload allocation as provided ~~by~~in the Department and the USEPA approved~~Department in the~~ TMDL.

1.5.4.2.2 The modeled MS4 annual average pollutant load ~~and estimated daily loads~~ without any storm water control measures.

Note: This is comparable to the no-controls condition modeled for the developed urban area performance standard of s. NR 151.13, Wis. Adm. Code.

1.5.4.2.3 The modeled MS4 annual average pollutant load ~~and estimated daily loads~~ with existing storm water control measures.

Commented [GU1]: Consider if we may want to have something besides tha annual average pollutant load since the TMDL WLA may be expressed as a daily load.

1.5.4.2.4 The percent reduction in pollutant load achieved calculated from the no-controls condition determined under section 1.5.4.2.2 and the existing controls condition determined under section 1.5.4.2.3.

1.5.4.2.5 The existing storm water control measures including the type of measure, area treated in acres, the ~~percent~~ pollutant load reduction efficiency, and confirmation of the permittee's authority for long-term maintenance of each practice.

1.5.4.3 If the summary required under section 1.5.4.2 shows that the permittee is not achieving the applicable percent reductions needed to comply with its TMDL wasteload allocation for each TMDL reachshed~~meeting all of its wasteload allocations~~, then with the annual report due March 31, 2017, the permittee shall submit a written plan to the Department that describes how the permittee will make progress toward achieving ~~the wasteload allocations~~compliance. The plan shall include the following information:

1.5.4.3.1 Recommendations and options for storm water control measures that will be considered to reduce the discharge of each pollutant of concern.

1.5.4.3.2 A proposed schedule for implementation of the recommendations and options identified under section 1.5.4.3.1.

Note: The proposed schedule may extend beyond the expiration date of this permit.

1.5.4.3.3 A cost effectiveness analysis for implementation of the recommendations and options identified under section 1.5.4.3.1.

Note: The Department intends to develop guidance and make it available on the Department's Internet site to assist a permittee with developing a plan under this section. The plan may incorporate green infrastructure or low impact development practices. For ~~many~~ some pollutants of concern, water quality trading may be an option considered by a permittee as part of its plan. For phosphorus reduction, a permittee may consider entering into an adaptive management agreement with a traditional point source discharger as described in s. NR 217.18, Wis. Adm. Code.

~~1.5.4.4 The permitee shall implement the plan for meeting the TMDL WLA as part of its ongoing stormater management program, and shall report on progress in implementing BMPS to meet the TMDL WLA as part of its annual MS4 reports.~~

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Commented [GU2]: As we discussed, suggest "many" vs. "any" to account for pollutants not well suited for trading, such as bacteria

Commented [BJK3]: As we discussed during our call on May 9, the intent is that the planning would be done during this permit cycle and that future permit cycles will have the expectations for implementation.